

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

 UNITED STATES of AMERICA) COURT FILE
) NO. 16-CR-257 (DWF/TNL)
)
) Courtroom 9 West
) Thursday, October 7, 2021
 (1) SUMALEE INTARATHONG) Minneapolis, Minnesota
) 1:00 P.M.

CRIMINAL MOTIONS HEARING

BEFORE THE HONORABLE TONY N. LEUNG
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Government: **OFFICE OF THE U.S. ATTORNEY**
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Thai Interpreter: Chintana Barden

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 Official Court Reporter - United States District Court
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1 (1:00 p.m.)

2 **P R O C E E D I N G S**

3 **IN OPEN COURT**

4 (Defendant present)

5 THE COURT: Thanks, everyone. Please be seated.

6 Good afternoon, everyone. This is the United
7 States District Court for the District of Minnesota, and the
8 case before the bench today for a motions hearing is
9 captioned as follows: The United States of America versus
10 Intarathong, and it's Case Number 16-CR-257, and
11 Ms. Intarathong is Defendant No. 1 in this case.

12 We'll note that we are in a COVID situation and
13 I'll give further instructions at a later point after
14 identification of the lawyers.

15 For the Government, please identify yourselves for
16 the record.

17 MS. PROVINZINO: Good afternoon, Your Honor.
18 Laura Provinzino and Melinda Williams on behalf of the
19 United States, and we are joined at counsel table by Special
20 Agent Tonya Price of Homeland Security Investigations.

21 THE COURT: And for Defense?

22 MR. MORRISON: Good afternoon, Your Honor. Aaron
23 Morrison appearing on behalf of Mrs. Intarathong, who is
24 present to my right.

25 THE COURT: Good afternoon. Thank you for being

1 here.

2 Counsel, in light of the well-documented concerns
3 regarding COVID-19 and in the interest of health of all
4 participants in today's hearing, I'd ask that you speak from
5 your seated position at your respective tables rather than
6 coming to the lectern. However, if you believe that you
7 want to come to the lectern, please let us know and you'll
8 have to bring your mike covers and so forth. Except for a
9 witness when testifying, please wear your masks utilizing
10 the mike covers.

11 I believe Ms. Intarathong -- does she have any
12 mike cover left on her --

13 MR. MORRISON: I'll put one on, Judge.

14 (Pause)

15 THE INTERPRETER: The interpreter has a face
16 shield instead of a mask.

17 THE COURT: Yes. Yes. You have a speaking part,
18 so when you're speaking, feel free to take off your shield.

19 One other housekeeping matter. Sorry, folks.
20 Remember, you have to clean your tables after we're finished
21 with the hearing. Again, we have to adjust -- just for your
22 information, I'm reminded by my clerks to wipe the bench,
23 which is sort of strange, because I think I'm the only one
24 up here.

25 (Laughter)

1 THE COURT: But we do follow the rules and that is
2 the rule, so I appreciate everyone working together on this.

3 So I just want to make a short record. This
4 matter was continued from the previous hearing date,
5 August 17, 2021, because Defendant had trouble understanding
6 her interpreter. And while at the last hearing the Court
7 discussed that this was a dialect matter, counsel for
8 Defendant I think indicated that it was really an issue of
9 accent, Mr. Morrison, you indicated, and that that was why
10 Ms. Intarathong could not understand the accent of a
11 non-native speaker.

12 Mr. Morrison, I think that's correct, but do you
13 care to elaborate any more on that?

14 MR. MORRISON: No, Your Honor.

15 THE COURT: Okay. Since that time, the Court has
16 looked and secured an interpreter this afternoon. We are
17 joined by Chintana Barden. And Mr. Morrison, you have
18 communicated with your client and that the accent or any
19 issues, dialect issues and the like, are not -- are fine in
20 this situation, is that correct?

21 MR. MORRISON: It is, Your Honor. We did a test
22 together on Zoom and Ms. Intarathong has indicated that she
23 can understand the interpreter that's present today.

24 THE COURT: Okay. Very well.

25 And also, of course, the Court reviews things as

1 well and I noticed it seems like Ms. Barden has a very
2 extensive resume, including that she's a graduate of
3 Thammasat University, I believe, in Thailand, and I think by
4 general reputation Thammasat and Chulalongkorn are probably
5 the best known of the universities in Thailand, so I would
6 expect that the fluency in Thai would not be an issue in
7 this case.

8 Okay. With that, I believe we can go ahead and
9 move forward with the interpreter and I'll swear you in,
10 ma'am. If you could stand up for me, please.

11 **CHINTANA BARDEN, COURT INTERPRETER, SWORN**

12 THE INTERPRETER: Yes, I do.

13 THE COURT: Okay. Thank you. You can lower your
14 hand.

15 Could you state your name and spell it slowly for
16 the reporter.

17 THE INTERPRETER: Yes. Chintana Barden,
18 B-A-R-D-E-N, interpreter for Thai for the federal court,
19 immigration court, and also state court, Your Honor.

20 THE COURT: Okay. Very well. Thank you very
21 much.

22 All right. The interpreter has been sworn in. I
23 think what I'd like to do before we get into the heart of
24 the motions is go through some of the other motions that I
25 believe we can handle just on paper.

1 We'll start with ECF number 262 and ECF number
2 884, Government's motion for discovery pursuant to Federal
3 Rules of Criminal Procedure 16(b), as in boy, 12.1, 12.3 and
4 26.2. These papers appear largely the same except that ECF
5 number 884 applies to Ms. Intarathong only and ECF 262 was
6 filed in connection with all defendants' cases.

7 How would the Government like to handle these two
8 motions? For example, would you like to withdraw the
9 original motion that's at 262 in favor of the more recent
10 motion that was filed relative to Ms. Intarathong's case in
11 ECF 884?

12 MS. PROVINZINO: Yes, Your Honor. We would move
13 to dismiss document 262, because as this Court has
14 identified, it's largely duplicative and we would just
15 pursue the discovery motion as to document 884.

16 THE COURT: Mr. Morrison, your position on that?

17 MR. MORRISON: No objection, Your Honor.

18 THE COURT: Okay. Then we'll grant the motion
19 with respect to -- note the withdrawal of 262 and we'll just
20 deal with 884.

21 I just want to touch base on experts a little bit
22 here. Neither of these motions nor Defendant's motion
23 mentions an expert disclosure schedule. Any agreement by
24 the parties on that timeline for experts?

25 MR. MORRISON: We were just discussing that issue,

1 Your Honor. I am generally familiar with the experts the
2 Government's going to use in this case from the previous
3 trial and I've read that trial transcript. I have indicated
4 to the Government it's my intent to make a **Daubert** challenge
5 to one of the Government's expert witnesses, so I would ask
6 for at least 30 days prior to trial for the Government to
7 make their disclosure so I can properly frame that issue
8 before the district court.

9 MS. PROVINZINO: Thank you, Your Honor.

10 The Government would agree to that. I think as
11 Mr. Morrison has indicated, he's largely familiar with at
12 least one of the two experts that we would intend to call.
13 We also anticipate identifying somebody who's an expert in
14 visas, and so we would agree to make those disclosures 30
15 days prior to trial.

16 THE COURT: All right. I'll note that then.

17 Okay. Let's turn to ECF number 895, defendant's
18 motion for disclosure of Rule 404(b) evidence. Defendant
19 asks for disclosure of 404(b) evidence no later than 30 days
20 before trial. In their motion the Government proposes 21
21 days.

22 Any agreement by the parties on this one?

23 MS. PROVINZINO: Your Honor, while the Government
24 believes the 21 days is reasonable, we would agree to the 30
25 days to keep that consistent with when our expert

1 disclosures are. In large part we've made Defendant aware
2 of what we anticipate our 404(b) evidence to be, but we
3 would agree to a 30-day deadline.

4 THE COURT: Mr. Morrison.

5 MR. MORRISON: No objection to their agreement,
6 Judge.

7 THE COURT: All right. ECF number 896 is
8 defendant's motion to retain agent notes.

9 Anything further from the Government on this?

10 MS. PROVINZINO: We agree to retain -- obviously
11 we take a different position as to discoverability, whether
12 those need to be produced, but we have no objection to the
13 motion as written to retain agent notes.

14 THE COURT: Anything further, Mr. Morrison?

15 MR. MORRISON: No, Your Honor.

16 THE COURT: Okay. ECF number 897 is defendant's
17 motion for discovery pursuant to Federal Rule of Criminal
18 Procedure 16. I believe we've covered the expert witness
19 disclosures with the Government's motion for pretrial
20 discovery, ECF 262 and 884.

21 Anything further on this from the Government?

22 MS. PROVINZINO: Well, we're happy to announce
23 we've provided the defendant's A file as we indicated we
24 would and have otherwise complied with our disclosure
25 obligations, but we recognize the continuing nature of those

1 and will continue to comply with those.

2 THE COURT: Mr. Morrison, anything?

3 MR. MORRISON: Nothing further.

4 THE COURT: Okay. ECF number 898 and 899, they
5 relate, respectively, to a motion to suppress statement from
6 July 7, 2011 and from July 13, 2017. I believe those are
7 the two that we'll be litigating with witnesses today.

8 Government, is that your understanding?

9 MS. PROVINZINO: Yes, Your Honor.

10 THE COURT: Mr. Morrison?

11 MR. MORRISON: Yes, Your Honor.

12 THE COURT: Okay then. Before we get into that
13 testimonial portion of this hearing, anything else from the
14 Government?

15 MS. PROVINZINO: No, not before the testimonial
16 portion, Your Honor.

17 MR. MORRISON: No, Your Honor.

18 THE COURT: Okay. Government, your case, first
19 witness.

20 MS. PROVINZINO: As to the motion to suppress the
21 July 2011 statement, the United States calls Supervisory
22 Customs and Border Protection Officer Phillip Simoy.

23 THE COURT: Okay, sir. Before you take the stand,
24 if you could raise your right hand.

25

1 **PHILLIP SIMOY, GOVERNMENT'S WITNESS, SWORN**

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay. Please be seated.

4 Why don't you get comfortable, and when you are
5 comfortable and ready to go, please indicate that by stating
6 and spelling your name slowly for the record.

7 THE WITNESS: My name is Phillip Simoy.

8 THE COURT: You can take off your mask.

9 THE WITNESS: Phillip Simoy. Last name is
10 S-I-M-O-Y.

11 THE COURT: How do you spell your first name?

12 THE WITNESS: Phillip, P-H-I-L-L-I-P.

13 THE COURT: With whom are you employed?

14 THE WITNESS: U.S. Customs and Border Protection.

15 THE COURT: And for how long?

16 THE WITNESS: Fifteen years.

17 THE COURT: I believe that given the protocol, I
18 think there's some documents that have been placed on the
19 witness table in advance and I believe that procedure was
20 discussed with everybody. We might as well get that cleared
21 up as everyone brings up the documents.

22 Is that the understanding?

23 MS. PROVINZINO: Thank you, Your Honor.

24 Prior to you taking the bench, I'd asked the
25 deputy if I could place Exhibits 1 and 2 face down on the

1 witness stand as I would not have to approach. I believe
2 Mr. Morrison is also in agreement with that, but they're not
3 currently face up. But in our testimony these were the
4 exhibits I've provided to the Court and also filed under
5 seal. At that point in time, I will ask the witness to turn
6 those over and we'll admit those at that time.

7 THE COURT: Mr. Morrison, that procedure?

8 MR. MORRISON: No objection.

9 THE COURT: Okay. Why don't you flip over
10 everything, and when you're inquired about it, obviously, I
11 think we should be able to tell when you reference it.
12 You're free to look at any of those documents to refresh
13 your recollection, but when you do, could you indicate to us
14 on the record that you are referring to the documents, okay?

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: With that, please proceed.

17 MS. PROVINZINO: Thank you, Your Honor.

18
19 **DIRECT EXAMINATION**

20 BY MS. PROVINZINO:

21 Q. What is your current position within Customs and Border
22 Protection?

23 A. My current position is supervisor.

24 Q. And what is your title?

25 A. Supervisory CBP Officer.

1 Q. You've indicated you've been with CBP for 15 years?

2 A. That is correct.

3 Q. What have been your roles and responsibilities with CBP?

4 A. I've been an officer in various positions in Immigration
5 and in Customs areas.

6 Q. What is your educational background?

7 A. I finished and graduated from Virginia Commonwealth
8 University with a Bachelor of Science.

9 Q. What specific field did you study?

10 A. Forensic and cultural anthropology.

11 Q. Do you have any special training to become a federal
12 law-enforcement officer?

13 A. Yes.

14 Q. What is that?

15 A. We have to go to the academy, the Federal Law
16 Enforcement Training Center in Glynco, Georgia.

17 Q. Is that FLETC?

18 A. Yes.

19 Q. And how long did you attend the classes at FLETC?

20 A. It's about three and a half, four years.

21 Q. And do you continue to do training as a federal
22 law-enforcement officer?

23 A. Yes.

24 Q. Supervisor Simoy, where do you currently work?

25 A. I currently work at the Chicago O'Hare International

1 Airport port of entry.

2 Q. How long have you been there?

3 A. Approximately four, five years.

4 Q. Prior to working in Chicago, what other locations have
5 you been at?

6 A. I have worked in San Francisco International Airport.
7 That included San Jose, Oakland, Fresno, Sacramento, as well
8 as Guam, Saipan, Seyequanco (ph), Northern Mariana Islands,
9 which is all part of Hawaii.

10 Q. Where were you working in July of 2011?

11 A. In San Francisco International Airport port of entry.

12 Q. How long had you been there at that point?

13 A. In July, it was approximately four years.

14 Q. So you were pretty familiar with the passenger flights
15 coming in and out of the San Francisco International
16 Airport?

17 A. That is correct.

18 Q. Where were they principally from?

19 A. Asia, Southeast Asia, and we had flights from Australia
20 and occasionally from Europe.

21 Q. In your role with Customs and Border Protection, are you
22 familiar with human smuggling?

23 A. Yes.

24 Q. And human trafficking?

25 A. Yes.

1 Q. What has your training and experience been in those
2 areas?

3 A. We have recurring annual training through our courses,
4 as well as in-person class courses that we've done.

5 Q. Okay. Are you familiar with various types of visas?

6 A. Yes.

7 Q. And what types of visas do you principally deal with in
8 your role?

9 A. In my role we do the B-1/B-2 nonimmigrant visitor visa,
10 visa waiver programs, and working class visa.

11 Q. What is a B-1/B-2 nonimmigrant visa?

12 A. B-1/B-2 nonimmigrant visa is for visiting for pleasure
13 or business.

14 Q. Would that be more commonly known as a tourist visa?

15 A. That is correct.

16 Q. And what are the restrictions on a B-1/B-2 visa?

17 A. They cannot work without authorization in the United
18 States, and they can't engage in illegal or criminal
19 activity in the United States.

20 Q. How long is someone permitted to stay in the United
21 States under one of those visitor visas?

22 A. Generally, it's six months.

23 Q. And if you stay beyond six months, what happens?

24 A. Then you are an overstayer, considered unlawfully
25 present.

1 Q. So I want to focus on the period of time July of 2011.

2 Where were you working at that time?

3 A. At that time it was called Secondary Immigration, which
4 is an area where individuals go for further questioning.

5 Q. And that was at the San Francisco Airport, is that
6 right?

7 A. That is correct.

8 Q. And when you're in Secondary, are you technically in the
9 United States?

10 A. You are not.

11 Q. And describe that.

12 A. You are in Secondary to undergo further questioning.
13 Some of those questions can be related to discrepancies in
14 your paperwork, as you're applying -- for instance, working
15 requires other certifications of paperwork, or you're
16 questioned about your true intent or purpose for coming into
17 the United States.

18 Q. How is it determined who will go into that Secondary
19 inspection or immigration area?

20 A. It's either determined by the officer working on Primary
21 through their questioning, or through an alert that the
22 officer in Primary is viewing.

23 Q. Can you describe what a typical day would have been like
24 for you back in July of 2011 in the airport?

25 A. During that time, that is the peak season for any air

1 travel, so it's very busy with students, tourism,
2 individuals also coming in to work in the United States.
3 It's busy.

4 Q. And what would their typical hours be like working?

5 A. Hours for CBP officers, it's anywhere from eight to ten
6 hours.

7 Q. And are you familiar with the defendant in this case,
8 Sumalee Intarathong?

9 A. Yes.

10 Q. And how did you become familiar with her?

11 A. She was referred to Secondary with other individuals on
12 that day.

13 Q. And was there also something that you referred to, for
14 lack of a better term, as an alert that made you aware of
15 Ms. Intarathong?

16 A. Yes.

17 Q. And what were you alerted to?

18 A. I was alerted to the possibility that she required
19 further interviewing with Homeland Security Investigations.

20 Q. So when you were made aware of her, got that alert, what
21 did you do?

22 A. I notified my supervisor, who in turn contacted HSI, or
23 Homeland Security.

24 Q. And when HSI is involved, what are they typically doing?

25 A. They are typically going to interview somebody -- to my

1 knowledge -- somebody that's potentially involved in illegal
2 matters, or criminal matters.

3 Q. And what would be your responsibility as the CBP
4 officer?

5 A. My responsibility is only determining admissibility into
6 the United States.

7 Q. So did you understand the first referral was to HSI?

8 A. That's correct.

9 Q. And when that was happening, what were you doing to
10 prepare for your administrative process?

11 A. I was reviewing Systems, seeing if she's ever traveled
12 to the United States before, and then putting things
13 together just to determine whether or not she would be
14 admissible to the United States.

15 Q. And were you able to learn about the defendant's
16 previous travel history?

17 A. Yes.

18 Q. And were you able to learn about whether she traveled
19 with other people?

20 A. Yes.

21 Q. And why was that relevant to your administrative
22 process?

23 A. With respect to the other individuals that were also
24 alerted or referred to Secondary, I discovered that there
25 was a pattern of her entering the United States with other

1 people who subsequently were overstaying, unlawfully present
2 in the United States.

3 Q. So what did you do with that information?

4 A. I started putting together a photo lineup, as well as
5 just putting -- writing down my notes of how I would be
6 asking Ms. Intarathong who those individuals were.

7 Q. And were these people who had come in on one of those
8 visitor B-1/B-2 visas?

9 A. I confirmed they came in on a B-1/B-2.

10 Q. And they had come in and stayed beyond the six-month
11 limit?

12 A. That is correct.

13 Q. And what's significant about that to you in your
14 administrative process?

15 A. This is establishing a pattern that when somebody enters
16 with Ms. Intarathong, the likelihood of somebody remaining
17 is there, so there's an administrative or thought process of
18 her bringing them in, in which I would later confirm with a
19 sworn statement.

20 Q. Now, when you're doing your administrative process, what
21 is your goal?

22 A. The goal or objective is just to determine if the person
23 is a bona fide visitor for pleasure into the United States.

24 Q. And if they are a bona fide visitor, what would that
25 mean?

1 A. If they're a bona fide visitor, they're admissible, and
2 on what they applied is a B-1/B-2, she would be admissible.

3 Q. So you're attempting to determine admissibility, is that
4 correct?

5 A. That's correct.

6 Q. Do you take any steps to learn if somebody maybe isn't
7 otherwise admissible, if there would be any concerns for
8 their safety if they're returned to their home country?

9 A. Yes.

10 Q. And what do you do in that regard?

11 A. We ask them -- there's -- we ask them if they have any
12 credible fear which would relate to U.S. citizenship, and if
13 so, we would send them to Immigration Service to further
14 determine their credible fear or asylum application.

15 Q. I'm going to ask you some questions about your actual
16 encounter with Ms. Intarathong and other encounters she had
17 with law enforcement prior to that date in July 2011, but
18 first I want to ask: That was a while back. Are you able
19 to remember what happened that day?

20 A. Yes.

21 Q. And how are you able to?

22 A. I remember that day as a result -- because when there
23 was an encounter with HSI, both the agent and
24 Ms. Intarathong were visibly upset, as well as I used this
25 as a training tool for a field training officer for

1 subsequent classes that I've taught.

2 Q. So you recall her reaction to the situation --

3 A. Yes.

4 Q. -- and you subsequently used that in your trainings?

5 A. Yes.

6 Q. Do you also -- are there records or documents that
7 you're able to go back to and look at as it relates to that
8 interaction?

9 A. Yes.

10 Q. And in fact, some of that's almost like a step-by-step
11 verbal, word-by-word interview, is that true?

12 A. Correct.

13 Q. So let's talk about that first law-enforcement encounter
14 with the Homeland Security agents. What did you understand
15 the Homeland Security agents' goal to be?

16 A. All I -- the only objective that I know is that when
17 they question anybody, it's along the lines of some sort of
18 criminal issue. I was not aware of where they -- what they
19 asked her.

20 Q. And so on that day you weren't fully aware of the scope
21 or nature of their investigation, is that right?

22 A. Correct.

23 Q. But you understood it to be something criminal, fair?

24 A. Something more higher than my administrative process.

25 Q. Have you subsequently come to know more about the nature

1 of that interview?

2 A. Yes.

3 Q. And what were they investigating?

4 MR. MORRISON: Object to foundation. How did he
5 learn.

6 THE COURT: Can you be more specific?

7 MR. MORRISON: How did he learn about what
8 happened, the foundation for that.

9 THE COURT: I'll sustain. Go ahead.

10 BY MS. PROVINZINO:

11 Q. Have you had an opportunity to look at information and
12 subsequently learn about the basis for that Homeland
13 Security interview?

14 A. Yes, some, yes.

15 Q. And what documents have you reviewed?

16 A. I've reviewed my previous own sworn statement, as well
17 as other statements that were taken with other people at the
18 time.

19 Q. And were those records found in the defendant's A file?

20 A. Yes.

21 Q. And what is an A file?

22 A. An A file is an identifying number to an individual who
23 has either been removed as an illegal individual from or
24 permanent resident to the United States. It just identifies
25 them as just that for immigration purposes.

1 Q. And so is an A file somebody's official immigration
2 history with the United States?

3 A. That's correct.

4 Q. And are those records that you rely on in your job?

5 A. Yes.

6 Q. And you've had an opportunity to review those as it
7 relates to -- or portions of those as it relates to the
8 defendant?

9 A. Yes.

10 Q. And based on that, what did you understand they were
11 investigating?

12 A. Based on what I understand now, currently, there was an
13 investigation of potential -- investigations resulting in
14 human smuggling or sex trafficking.

15 Q. Supervisor Simoy, it may help if you turn now to what
16 should be overturned in front of you, what's been marked for
17 identification purposes as Government Exhibit 1. Do you
18 want to turn that document over, look at it and see if
19 you're familiar with it?

20 A. Yes.

21 Q. Do you have that in front of you?

22 A. Yes, I do.

23 Q. And what is Exhibit 1?

24 A. Exhibit 1 is the interview of the encounter the Special
25 Agent had during that day.

1 Q. And was this found in the A file?

2 A. Yes.

3 Q. And is this a true and accurate copy of the one you
4 reviewed in the defendant's A file?

5 A. Yes.

6 MS. PROVINZINO: The Government would move for
7 admission of Exhibit 1.

8 MR. MORRISON: Your Honor, I do want to make just
9 an objection for the record on this. I obviously understand
10 that hearsay is admissible in motion hearings. My specific
11 objections to this is that this Exhibit 1 contains an
12 interview that occurred of Ms. Intarathong that this witness
13 was not present for. It details the waiver of her --

14 THE COURT: Can you give me the legal objection,
15 Counsel?

16 MR. MORRISON: Yes. The legal objection is
17 because this is related directly to the admissibility of her
18 statement, my objections are Sixth Amendment and **Crawford**,
19 but also due process, that she's not able to actually
20 question the agents that were present during this interview
21 and purportedly read her Miranda rights.

22 THE COURT: Any response?

23 MS. PROVINZINO: I believe defense counsel
24 acknowledged that there is -- it's permissible to use
25 hearsay and rely on hearsay. This is also offered in

1 context of what I understand to be Defendant's objections to
2 the statements taken by Mr. Simoy, that it wasn't
3 Mirandized. This provides the full sequence of all of her
4 law-enforcement encounters. He has familiarity with this
5 because it's in the A file, which is the certified record of
6 everything related to Ms. Intarathong's immigration, and
7 it's admissible for the purposes of the -- determining the
8 suppression of the statements all made to Mr. Simoy. It was
9 also Mirandized. I don't understand there to be any
10 challenge as to that, so I don't think there's any due
11 process right and based on we were only able to bring one
12 agent for this hearing. So I understand some of the limited
13 **Crawford** allegations made, but as to the limited purposes
14 for this hearing hearsay is admissible and it's admissible
15 as a certified record from the defendant's A file.

16 MR. MORRISON: And the last piece of the record
17 that I'd like to correct, Judge, is that at the time I filed
18 my motion to suppress statements given by Ms. Intarathong to
19 Officer Simoy, the July 7th memo that's Government Exhibit 1
20 had not been produced to the defense. It was only after the
21 filing of my motion that this document was produced, and I
22 certainly believe my motion covers suppression of all of her
23 statements on that day.

24 THE COURT: Overruled. Please proceed.

25 MS. PROVINZINO: Thank you, Your Honor.

1 BY MS. PROVINZINO:

2 Q. Supervisor Simoy, do you see Exhibit 1 in front of you?

3 A. Yes.

4 Q. And this was created by a Special Agent Alex Chan, is
5 that correct?

6 A. Yes.

7 Q. Do you know him?

8 A. I know of him, yes.

9 Q. And have you interacted with him?

10 A. We have.

11 Q. In what way?

12 A. We have in relation to any other investigation or
13 communication at the San Francisco Airport, but it's not as
14 frequent, wasn't as frequent.

15 Q. Okay. And why is that?

16 A. He was part of the investigative side should we ever
17 have to call them, but rarely did we have to ever call them.

18 Q. So it would be more unusual to have an HSI agent doing a
19 criminal investigation at the airport, is that correct?

20 A. Yes.

21 Q. Because most of what you were doing was focusing on the
22 administrative side of things.

23 A. Yes.

24 Q. Now, were you part of the interview that Special Agent
25 Alex Chan did with the defendant?

1 A. I was not.

2 Q. Were you able to overhear anything?

3 A. I did not.

4 Q. After that interview concluded, then what happened?

5 A. Then I did witness that as they both came out, Special
6 Agent Chan just said, "Get this lady out of here" -- he was
7 visibly upset and so was Ms. Intarathong -- out of the
8 office.

9 Q. And that was memorable to you, is that right?

10 A. Yes.

11 Q. How did you know that the defendant was upset?

12 A. I could see it in her face as she was walking right
13 behind him.

14 Q. And that interaction as you understand ended when the
15 defendant invoked her right not to answer any more
16 questions, is that right?

17 A. Yes.

18 Q. And at that point in time, that was an interview that
19 lasted about an hour and a half, is that right?

20 A. Approximately.

21 Q. And then you were also intending or needed to go through
22 your administrative review process, is that right?

23 A. Yes.

24 Q. Was there a break between that interview and yours?

25 A. Yes.

1 Q. And what happened during that time?

2 A. During that time, I was still gathering information
3 through Systems, as well as we conducted a bag exam, as well
4 as getting her food.

5 Q. And so after that food break, what was your next step?

6 A. I did talk to Ms. Intarathong prior to the statement,
7 preliminary questions, but after the food break and when I
8 initiated the sworn statement.

9 Q. And again, what's the purpose of your sworn statement?

10 A. The purpose of the sworn statement is to capture what
11 her statements were when she referred to a photo lineup that
12 I presented, as well as some of her statements that she told
13 me prior to it.

14 Q. And is this part of that determination you needed to
15 make about admissibility or whether there's any fear?

16 A. Yes, correct.

17 Q. And do you create a record of that process?

18 A. Yes.

19 Q. And that's documented?

20 A. Yes.

21 Q. And that's something that you also do in conjunction
22 with the defendant, is that correct?

23 A. Yes.

24 Q. And did you follow that process in this case?

25 A. Yes.

1 Q. Supervisor Simoy, I'll ask you to turn to what's been
2 premarked for identification purposes as Government Exhibit
3 2. You probably have that on the stand in front of you.
4 I'll ask you to turn that over and let me know when you've
5 had a chance to look at it.

6 A. Yes. I've looked at it.

7 Q. And do you recognize this document?

8 A. I do.

9 Q. What is it?

10 A. The first portion is the I-213 Record of
11 Deportable/Inadmissible Alien.

12 Q. And what is that document?

13 A. That is the document that captures all the biographic
14 information that's required in her A file, identifiers and
15 the narrative of the encounter of that day.

16 Q. And is that standard practice every time you do your
17 administrative determination?

18 A. Yes.

19 Q. And on that it appears to be your name and signature, is
20 that correct?

21 A. Yes.

22 Q. And does this appear to be a true and accurate copy of
23 that I-213?

24 A. Yes.

25 Q. And that's the first two pages, is that correct?

1 A. That is correct.

2 Q. So if we turn to page 3, there appears to be something
3 referred to as an I-867A that has about nine pages connected
4 to it, is that right?

5 A. That's correct.

6 Q. And what is that?

7 A. This is a Record of Sworn Statement that I conducted
8 with Ms. Intarathong.

9 Q. And how do you know this is the one that you conducted?

10 A. I conducted it because I signed each page after page 1,
11 and then towards the end on the 867B I signed it again.

12 Q. I also see on each of the pages there appear to be the
13 initials "S.I." Do you see that?

14 A. Yes.

15 Q. And what is that?

16 A. The initials are provided by Ms. Intarathong after I
17 provide this statement to her for her review.

18 Q. And based on your review, is this a true and accurate
19 copy of the document you made in July of 2011?

20 A. Yes.

21 Q. And if we turn, there's two more portions of this
22 Government Exhibit 2. Do you see what appears to be an
23 I-867B, Bates labeled 6598, a Jurat for Record of Sworn
24 Statement?

25 A. Yes.

1 Q. What is that?

2 A. The purpose of this is to include the statement as well
3 as determine if there was any fear of being removed from the
4 United States.

5 Q. And is this a true and accurate copy of the document you
6 created?

7 A. Yes.

8 Q. How do you know that?

9 A. At the Port of San Francisco, once we ask these
10 questions -- and we give this, again, to any person that
11 we're determining admissibility, but then it's my signature,
12 as well as each question is signed by the person.

13 Q. There also appears to be another individual's signature
14 as a witness. Do you see that?

15 A. Yes.

16 Q. And who is that?

17 A. That is Officer Erolin.

18 Q. And what was his role?

19 A. His role was putting -- conducted the baggage check and
20 also put the A file together.

21 Q. Now I want to turn to the very last page of this. Do
22 you see what appears to be a photocopy with hole punches at
23 the top?

24 A. Yes.

25 Q. And does that mean this was taken out of the defendant's

1 A file?

2 A. Yes.

3 Q. And what is this?

4 A. The last page is the photo lineup that I created while
5 she was in the room talking with the agent and what I pieced
6 together when we had that break in time.

7 Q. Is that a true and accurate copy of the photo lineup and
8 your interaction with Ms. Intarathong related to that
9 lineup?

10 A. Yes.

11 MS. PROVINZINO: At this time the United States
12 moves the admission of Government Exhibit 2.

13 MR. MORRISON: No objection.

14 THE COURT: Court receives Government 2.

15 BY MS. PROVINZINO:

16 Q. So I'm going to ask you a series of questions as it
17 relates to the information contained in --

18 A. Sure.

19 Q. I want to focus first on that administrative interview
20 that you did. Did you provide a Miranda warning?

21 A. I did not.

22 Q. Why not?

23 A. When we're determining admissibility, being the
24 functional equivalent of a border, we don't require Miranda
25 warnings.

1 Q. Do you provide some other type of advisement to the
2 individual you're questioning?

3 A. We provide an advisement as far as the severity of the
4 sworn statement, the possibility of being removed, and as
5 well as credible fear.

6 Q. So your advisement would include consequences of lying
7 to you in the statement?

8 A. That's correct.

9 Q. In the process of conducting an interview like this, do
10 you make a determination of whether the individual can speak
11 and understand English?

12 A. Yes.

13 Q. And in Ms. Intarathong's case, did you make that
14 determination?

15 A. Yes.

16 Q. How did you do that?

17 A. I made that assessment when I was able to speak with her
18 prior to this and even asking her the question: "Are you
19 comfortable with the English language?"

20 Q. And she indicated she was.

21 A. Yes.

22 Q. And prior to your interview with Ms. Intarathong, did
23 you understand the Homeland Security Investigations
24 interview -- what language was that in?

25 A. I believe that was in English.

1 Q. If an individual's not able to speak and understand your
2 questions in the English language, what would you do?

3 A. We would resort to finding an officer who speaks the
4 language. If we do not, then we call the interpreter
5 service.

6 Q. And did you feel that was necessary in this
7 circumstance?

8 A. No.

9 Q. So after you make a determination that somebody can
10 understand the language, it appears that you made some
11 initial inquiry into the defendant's state of mind, is that
12 fair?

13 A. Yes.

14 Q. And why do you do that?

15 A. We do that just to make an assessment whether they can
16 continue with the rest of the statement, as well as seeing
17 if there's anything prohibiting them from answering any of
18 the subsequent questions.

19 Q. And so in doing that assessment of whether somebody's
20 capable, did you make that same inquiry as to
21 Ms. Intarathong?

22 A. Yes.

23 Q. Did you ask or have an indication that she was using
24 medications that would make it difficult for her to answer
25 your questions?

1 A. Yes, I did ask that question.

2 Q. What did you learn?

3 A. I learned that she was not under the influence of any
4 medication.

5 Q. And what about alcohol?

6 A. Also the same. It would not prohibit her from answering
7 the questions.

8 Q. I want to step back and I should have asked this
9 earlier. Where did this actual interview take place?

10 A. This took place in a separate area in our Secondary
11 office. So we have a lobby in Secondary and this
12 questioning was in another area separate from everyone else.

13 Q. And can you describe that area.

14 A. The area is about -- I want to say anywhere from 15
15 to -- it's a pretty big area, but there's only a few people
16 that have accessibility.

17 Q. Is it a private area?

18 A. Yes.

19 Q. What is the rest of the area like?

20 A. The rest of the area has people sitting around waiting
21 for their opportunity to be called up and talked to, which
22 includes anywhere from 20 to 50 people at a time.

23 Q. Can that get noisy and loud?

24 A. Yes.

25 Q. When you were in the separate room with Ms. Intarathong,

1 who else was in that room?

2 A. Officer Erolin was.

3 THE COURT: Could you spell that?

4 A. Officer Erolin is E-R-O-L-I-N.

5 Q. What were you wearing when you were doing that
6 interview?

7 A. My uniform that I'm wearing right now.

8 Q. And do you want to describe that on the record?

9 A. The uniform is I have my badge, my name tag, my
10 epaulettes, and writing on the side of my arms to indicate
11 my agency.

12 THE COURT: Is that your duty uniform?

13 THE WITNESS: Yes, sir. Yes, Your Honor.

14 Q. And while you're on duty, do you carry a weapon?

15 A. I do.

16 Q. And were you carrying a weapon on that day you
17 interviewed Ms. Intarathong?

18 A. Yes, I was.

19 Q. Did you draw your weapon?

20 A. I did not.

21 Q. What voice did you use in your interview with
22 Ms. Intarathong?

23 A. The similar tone that I'm using right now.

24 Q. What about volume?

25 A. Volume, similar, professional.

1 Q. And did you provide the advisement that you talked
2 about, knowing about what the consequences may be if
3 somebody's not truthful and about what the penalties might
4 be if somebody is deemed inadmissible?

5 A. Yes.

6 Q. And then did you swear out the defendant?

7 A. I did.

8 Q. How do you do that?

9 A. I ask her -- or I tell her in the initial portion of the
10 I-867A and also ask her to swear or affirm that all of her
11 statements are true and complete.

12 Q. If somebody were to elect not to answer any questions,
13 what would the consequences of that be?

14 A. If they do not answer any of your questions, then they
15 fail to complete the inspection. They would just be
16 returned.

17 Q. And in this situation, was Ms. Intarathong willing to
18 answer your questions?

19 A. Yes.

20 Q. And I think you had identified that she had seemed upset
21 earlier in the evening, maybe an hour or so before you had
22 food, is that right?

23 A. Yes.

24 Q. What was her demeanor in interacting with you?

25 A. She was really calm and she elected to really speak to

1 me rather than the HSI agent.

2 Q. And she in fact had identified that you were more calm,
3 is that right?

4 A. Yes.

5 Q. Do you remember what word she used?

6 A. "You're a lot more calm and nicer."

7 THE REPORTER: "I believe" what? I'm sorry.

8 A. "I believe that you're calm and nicer."

9 Q. Just to clarify, did you get that? That's what she
10 says, is that correct?

11 A. Mm-hm.

12 Q. At the start of your interview, did you note the time?

13 A. Yes.

14 Q. Why do you do that?

15 A. We note the time to know when it really begins.

16 Q. I think I asked some questions earlier that this
17 interview took place in English. Did you ask some questions
18 or learn some things about Ms. Intarathong's comfort in the
19 English language?

20 A. Yes, I did.

21 Q. What did you learn?

22 A. She was very familiar with the English language. She
23 studied and married a U.S. -- a British citizen, U.K.
24 citizen.

25 Q. Now, at the start of your administrative interview it

1 appeared you asked a lot of biographical questions.

2 A. Yes, that's correct.

3 Q. Why do you do that?

4 A. We do that just to determine if there's any derivative
5 immigration status that she could obtain, herself being
6 present in the United States or through family members.

7 Q. And did you learn where she was born?

8 A. Yes.

9 Q. And was it in the United States?

10 A. No.

11 Q. Did you learn if she had any other names other than
12 Sumalee Intarathong?

13 A. Yes.

14 Q. What did you learn?

15 A. Her other name when I asked her was Emily Alice Spencer
16 Warren.

17 Q. And was that in connection to her marriage, that last
18 name?

19 A. Yes.

20 Q. And you asked about her spouse at the time, is that
21 right?

22 A. Yes.

23 Q. What was the purpose of that question?

24 A. To also determine if the spouse had any -- she would
25 obtain any derivative status or the spouse was also a U.S.

1 citizen.

2 Q. And you did the same thing related to her parents, is
3 that correct?

4 A. That's correct.

5 Q. And through that did you learn or determine if the
6 defendant had any derivative status she could obtain through
7 family members?

8 A. I concluded that she did not have any derivative status
9 or immigration status.

10 Q. But after completing that biographical part of the
11 administrative interview, you started focusing on the
12 defendant's purpose in coming to the United States, is that
13 correct?

14 A. That's correct.

15 Q. And what was the reason for those questions?

16 A. That establishing a platform for deciding what their
17 intention is or what their purpose in the United States is.

18 Q. Did you learn what type of visa the defendant was coming
19 on?

20 A. Yes. She was coming on a B1/B2 visitor.

21 Q. Did you learn if she was traveling with any other
22 people?

23 A. Yes.

24 Q. What did you learn?

25 A. I learned that she was traveling with three other people

1 who were referred to Secondary.

2 Q. And why were those other individuals referred to
3 Secondary?

4 A. They also had alerts from Primary.

5 Q. And what was important about that information, that
6 there were three others traveling on a visitor visa who were
7 referred to Secondary?

8 A. They were all tied in with Ms. Intarathong. They all
9 came in under the same itinerary.

10 Q. And those were women, is that right?

11 A. That's correct.

12 Q. And were they undergoing the same administrative
13 interview process that you were conducting with
14 Ms. Intarathong?

15 A. Yes.

16 Q. And was that happening at the same time?

17 A. Yes.

18 Q. What were you learning from those interviews?

19 A. I learned that from one of them, one of them admitted or
20 provided more information about Ms. Intarathong and what
21 their true intention coming to the United States was.

22 Q. How was that relevant to your administrative process?

23 A. It becomes -- after I ask for purpose, then it becomes
24 change and what I know and what I'm asking her, what I'm
25 going to be asking her in the rest of the sworn statement.

1 That's going to be opposite of what her true intention is.

2 Q. And what other steps did you take to learn about her
3 true intent?

4 A. I began asking her about the people she was traveling
5 with, also her past travels and who she's coming here with.

6 Q. And in relation to her past travel, you had indicated
7 earlier and on the last page of Government Exhibit 2 that
8 you had put together a photographic lineup, is that right?

9 A. That's correct.

10 Q. I'll have you turn to that last page of the photographic
11 lineup in front of you. Did you show this to
12 Ms. Intarathong?

13 A. Yes, I did.

14 Q. And what did you ask her about?

15 A. I'd asked her, "Do you know anybody in these pictures?"

16 Q. And how did she respond?

17 A. She responded with, "Yes, I know a few of these people."

18 Q. And how did you put together this photographic lineup in
19 the first place?

20 A. I initially did Systems queries, you know, reviewing if
21 there was anybody that she traveled with in the past and if
22 they had the same itinerary. And then when I did find that
23 they had the same itinerary, I started looking to each
24 individual and asked if they were still here, and
25 eventually -- or she pointed to they were still here in the

1 United States.

2 Q. So what would be relevant about those individuals who
3 previously traveled with her on a B-1/B-2 visitor visa if
4 they're still in the United States?

5 A. This establishes the pattern that when she comes into
6 the United States with somebody else, that these individuals
7 remain here.

8 Q. So in addition to those individuals that the defendant
9 had previously traveled with, did you put together photos of
10 any other individuals?

11 A. No.

12 Q. So everybody in this photographic lineup were people she
13 previously traveled with?

14 A. No, not everyone.

15 Q. Oh. So describe your process --

16 A. I did -- I found people that she did travel with before
17 and then I randomly started pointing to individuals that
18 there was no connection or nexus to her at all.

19 Q. And why did you do that?

20 A. I did that just -- not to provide her or direct, like,
21 pinpoint of who they are. My opening question was, "Do you
22 know anybody in this picture?" That's why I included those
23 people.

24 Q. And when you asked that question, "Do you know anyone,"
25 how did Ms. Intarathong respond?

1 A. She pointed to a couple of the people that were here and
2 those were the people that I already knew through my System
3 inquiries that were still unlawfully present in the United
4 States.

5 Q. Did she document that on this photographic lineup?

6 A. Yes.

7 Q. How did she do that?

8 A. She pointed to the individuals and I asked then
9 specifically who they were, she wrote down who they were,
10 and then at one point there was one in particular I asked
11 her if she's ever traveled with who she pointed out as her
12 sister-in-law.

13 Q. When you say the "sister-in-law," are you referring to
14 the individual in the bottom column on the far right?

15 A. Yes.

16 Q. So there are a couple check marks on the top two
17 photographs on the left on the top line, is that correct?

18 A. Yes.

19 Q. And what appear to be Thai names for those individuals?

20 A. Yes.

21 Q. Who put that information on this photo lineup?

22 A. That -- I put the pictures on there, but I did not write
23 anything that's on this photo lineup.

24 Q. So who did the writing on the photos?

25 A. Ms. Intarathong.

1 Q. And so all of the words in there, the names of these
2 individuals and whether she knows them, was from
3 Ms. Intarathong, is that right?

4 A. That's correct.

5 Q. And then is that her signature on here?

6 A. That is correct.

7 Q. So what did you learn from showing her this photographic
8 lineup that was important to your administrative process?

9 A. I learned that there was -- confirming that there was a
10 pattern of individuals remaining, as well as what was
11 currently happening with three other individuals that were
12 also being removed administratively.

13 Q. So taking all of that information together, were you
14 able to make a determination as to whether Ms. Intarathong
15 was admissible or not?

16 A. Yes.

17 Q. And what was your determination?

18 A. She was determined inadmissible to the United States.

19 Q. Once you make that determination, what do you do?

20 A. Once that's concluded I ask her just a couple more
21 questions on the jurat as far as fear.

22 Q. And when you're referring to the jurat, Supervisor
23 Simoy, are you referring to the second-to-the-last page in
24 Government Exhibit 2?

25 A. Yes.

1 Q. And walk the Court through the jurat.

2 A. When we're asking these -- the jurat questions, we ask
3 them obviously why did you leave, so it reintroduces the
4 purpose of their trip, why they're coming to the United
5 States.

6 And then the next two questions are related to if
7 there's any credible fear that I need to be aware of that
8 you haven't explained while in the sworn statement.

9 And then the last question, is there anything else
10 that you would like to add to conclude everything.

11 Q. Now, if there had been credible fear, what would you
12 have done?

13 A. This would have been referred to U.S. Citizenship and
14 Immigration Services for further review.

15 Q. And in that last question, did Ms. Intarathong have
16 anything else she wanted to tell you?

17 A. Yes, she answered.

18 Q. And what did she tell you?

19 A. She answered: "No, but it isn't fair. I didn't do
20 anything illegal."

21 Q. And we've already established that she signed this jurat
22 in two different places, is that correct?

23 A. Yes, that's correct.

24 Q. And is this a sworn statement?

25 A. Yes.

1 Q. And then you signed it as well as another witness,
2 Customs Border Protection Officer Erolin, is that right?

3 A. That's correct.

4 Q. So at that point had you communicated to the defendant
5 that she was inadmissible?

6 A. Yes.

7 Q. And had you given her the reasons for it?

8 A. Yes.

9 Q. How did she respond?

10 A. She -- she understood. She said, "Yes, I understand."

11 Q. And in your process after you do the jurat, what happens
12 next?

13 A. After the jurat? Then we conclude with putting the file
14 together and she remains with it until the next available
15 flight.

16 Q. And in putting the file together, is that the step at
17 which she reviews it?

18 A. We give -- yeah, we give it to her, she reviews it, and
19 then she signs off with the initials on the bottom of each
20 page.

21 Q. And did she do that here?

22 A. Yes.

23 Q. And those are her initials on the record of the sworn
24 statement?

25 A. Yes.

1 Q. So after she reviewed it and signed off on it, what
2 happened next?

3 A. We actually provide her a copy of her inadmissibility
4 and then she just remains with us until she departs the next
5 day.

6 Q. And where is the location that she stays?

7 A. She remains in our Secondary office, because at that
8 time we didn't have a detention facility at the
9 San Francisco International Airport, so she remains in the
10 lobby until then.

11 Q. And is that the lobby of the Secondary area?

12 A. Yes.

13 Q. And was she under handcuffs?

14 A. No.

15 Q. Was she able to access the bathroom?

16 A. Yes.

17 Q. How about food and water?

18 A. Yes.

19 Q. You talked about she had to remain until the next
20 flight?

21 A. Yes.

22 Q. And how soon was the next flight available?

23 A. Usually that is the following morning or early
24 afternoon.

25 Q. And was that the case for Ms. Intarathong?

1 A. Yes.

2 THE COURT: What happened?

3 MS. PROVINZINO: I wonder if your mike -- is your
4 light on on your microphone, the green light on the base?
5 Do you see a green light on your microphone?

6 THE WITNESS: There's no green light, no.

7 THE CLERK: It turned off. Sorry.

8 THE COURT: Yeah. I don't know why it powers off
9 in the middle of a hearing.

10 (Pause)

11 THE COURT: It's powering up. Sorry, guys.

12 MS. PROVINZINO: No problem.

13 (Pause)

14 THE COURT: Sorry for the delay.

15 MS. PROVINZINO: No problem.

16 THE COURT: We've had IT up here a couple of
17 times.

18 (Pause)

19 THE COURT: We're back. Please proceed. You can
20 repeat the last question if you want.

21 BY MS. PROVINZINO:

22 Q. We were talking about the conclusion of your process
23 where Ms. Intarathong was waiting for the next available
24 flight. While she was doing that, was she waiting with
25 anyone?

1 A. She was waiting with the other individuals that were
2 being returned.

3 Q. So she was able to interact with them freely?

4 A. Yes.

5 THE COURT: Is that the three others?

6 THE WITNESS: Yes, sir -- yes, Your Honor.

7 Q. If Ms. Intarathong disagreed with your determination
8 that she wasn't admissible, could she have challenged that?

9 A. At the port of entry, no.

10 Q. Is there a process to petition that later?

11 A. Yes.

12 THE COURT: Folks, we're going to have to just
13 speak up.

14 Mr. Court Reporter, if at some point you cannot
15 hear or anyone on the defense can't hear, the interpreter,
16 Ms. Intarathong, others, let us know.

17 (Pause)

18 THE COURT: Again, folks, I can hear so far, but
19 if anyone cannot, wave, do something to catch my attention
20 and then we can recess. We have an IT person here.

21 It seems like it's just going on and off and it
22 seems like it's going back on again.

23 Again, I believe we were talking about the three
24 other individuals with Ms. Intarathong in the lobby of the
25 Secondary area waiting for the next flight.

1 BY MS. PROVINZINO:

2 Q. And who were those other individuals with her?

3 A. These were -- I don't know them by name, but I might
4 have wrote it the sworn statement, but the individuals that
5 came in with her.

6 Q. Now, if she had disagreed with your decision that she
7 wasn't admissible, could she challenge that?

8 A. No, not at the port of entry.

9 Q. After the port of entry after she's removed, is there a
10 process to challenge it?

11 A. Yes.

12 Q. What would that be?

13 A. She would have to visit the Department of State and
14 bring the paperwork that I did give her and say that this
15 was incorrect, the determination was wrong.

16 Q. Did she do that in this case?

17 A. Not that I'm aware of, no.

18 Q. At the end of your administrative process --

19 THE COURT: Just to be clear, so that would occur
20 overseas then, right?

21 THE WITNESS: Yes, sir -- yes, Your Honor.

22 THE COURT: Thank you.

23 MS. PROVINZINO: Thank you, Your Honor.

24 BY MS. PROVINZINO:

25 Q. At the end of your interview with her, you in the report

1 document some questions you asked as to whether she'd been
2 treated fairly in the process. Do you recall those?

3 A. Yes.

4 Q. Why do you ask those questions?

5 A. We ask this because we want to make sure that we haven't
6 treated the individual or any other officer treated the
7 individual unfairly or did anything to the individual.

8 Q. And how did Ms. Intarathong respond to those questions?

9 A. She answered yes, she was treated fairly.

10 Q. You also asked if she had been coerced or coached?

11 A. Yes.

12 Q. Why did you do that?

13 A. We ask that so that we eliminate any issues that may
14 have occurred with any other officer or anything that is
15 incorrect entirely.

16 Q. And she affirmed that she hadn't been coerced or coached
17 in her interactions with you, is that right?

18 A. Right. She said no, she wasn't.

19 Q. How long in total did your interactions with the
20 defendant take?

21 A. I would say my interaction with her was probably up to
22 three hours, but then from start to finish of the case when
23 she entered maybe went into six to seven hours.

24 Q. And in the period of that interaction with her, did she
25 understand what was going on?

1 A. Yes.

2 Q. Did she understand your questions?

3 A. Yes.

4 Q. How do you know that?

5 A. I made sure that she -- I gave her the actual sworn
6 statement for her to read so that she can go over, and
7 during the course -- any time I was doing the sworn
8 statement anything that needed to be repeated or to be done,
9 we would do that.

10 Q. And in the course of your interaction, did you ever
11 raise your voice with her?

12 A. I did not.

13 Q. Did you make promises to her?

14 A. I did not.

15 Q. Did you threaten her?

16 A. No.

17 Q. Did you draw a weapon?

18 A. No.

19 Q. Did you prevent her from getting food or using the
20 bathroom?

21 A. No.

22 Q. Did you observe or notice anything that was preventing
23 her from fully answering your questions?

24 A. No, I did not.

25 Q. Was there anything unusual about the process and the

1 paperwork here?

2 A. No.

3 Q. We talked earlier about this being an interview that you
4 remember and using your field training even though it was
5 ten years ago. What was significant or what was memorable
6 for you about this interaction?

7 A. This was one of the only cases where HSI initiated, but
8 did not complete. That's one thing I did remember about it.

9 And then this is one of the cases that I've done
10 that has resulted in nothing that's typical with other
11 extraditable people or inadmissibility cases.

12 Q. And what do you mean by that?

13 A. Typical inadmissibility or extraditable cases involve
14 somebody that's just working without authorization, someone
15 working illegally in the United States.

16 Q. What was different about this one?

17 A. This wasn't working. This was along the lines of
18 context of bringing people into the United States.

19 Q. And you've also learned something from the earlier
20 interaction when the defendant had been frustrated and upset
21 with law enforcement and you kind of corrected that.

22 Describe that for the Court.

23 A. I was able to recover by talking to her after that
24 encounter with HSI Special Agent Chan, just letting her know
25 that whatever she needs -- I can get her food, I actually

1 did get her food, and then we would talk later on for the
2 sworn statement.

3 MS. PROVINZINO: No further questions at this
4 time.

5 THE COURT: Okay. When you're ready,
6 Mr. Morrison.

7 MR. MORRISON: Thank you, Judge.

8

9

CROSS-EXAMINATION

10 BY MR. MORRISON:

11 Q. Officer Simoy, Aaron Morrison is my name. I introduced
12 myself to you the last time we were in court back in
13 August or September, wherever that was.

14 A. Yes.

15 Q. Thanks for coming back again.

16 I want to start off by talking about Exhibit 1.
17 Just to be clear, you did not participate in this interview
18 that's reflected in Exhibit 1 in any way, is that true?

19 A. I did not participate in the interview.

20 Q. Okay. You weren't in the room and it was in a separate
21 room with other agents, correct?

22 A. Yes.

23 Q. Okay. So as far as your firsthand knowledge of anything
24 that's written in the report of Exhibit 1, that's pretty
25 much zero, fair, so as reflected by what was said during the

1 interview?

2 A. Right.

3 Q. Okay. I just want to -- you talked about this a little
4 bit on direct, but at the conclusion of the interview, you
5 indicated that Agent Chan and Ms. Intarathong were both
6 upset, correct?

7 A. Correct.

8 Q. And Agent Chan said something to the effect of, "Get
9 this lady out of here"?

10 A. Yes.

11 Q. What did you take that to mean?

12 A. I took that to mean that he didn't accomplish or
13 complete his objective or whatever he was needing to do.
14 That's what I took out of it.

15 Q. Okay. And, "Get this lady out of here," was that in
16 reference to getting her out of the United States, or out of
17 the interrogation room? What was your take on that?

18 A. My take was that he -- to remove the person from the
19 United States.

20 Q. And Ms. Intarathong was also upset when she was leaving
21 that room.

22 A. Yes.

23 Q. And you answered a question on direct in relation to her
24 invoking her rights. Is that something that Agent Chan told
25 you she did or is that just something you now know from

1 reviewing Government Exhibit 1?

2 A. That's something that I deduced when they came out of
3 the room, because he said -- I don't -- "Get this lady out
4 of here," but I don't -- I don't respond to HSI. I talk to
5 my supervisor.

6 Q. Okay. Now, looking at Exhibit 2, there is on the first
7 page a: "Date, Place, Time, and Manner of Last Entry," and
8 that indicates July 7, 2011, at 1738, correct?

9 A. Where is this? Where are you looking?

10 Q. We're on Exhibit 2, the very first page, fourth box down
11 on the left-hand side.

12 A. Okay.

13 Q. So I assume that that's essentially when her airplane
14 landed at the San Francisco International Airport, is that
15 fair?

16 A. I would say Korean Airlines was usually in the morning,
17 but, yeah. Because there's -- the time was on here, it was
18 created, that I recall.

19 Q. And then on the same first page on the right-hand side
20 about six boxes down there's a date and hour of July 7,
21 2011, 2029.

22 A. Yes.

23 Q. What does that reference?

24 A. That's the reference of when the system -- or when we
25 were inputting stuff into the system into our -- for her A

1 file generation.

2 Q. And would that have occurred before you sat down to meet
3 with her? Is that after you sat down to meet with her?

4 A. This was before my statement.

5 Q. Okay. And then going to that statement, page 1 of the
6 I-867A form, it indicates that the interview occurred at the
7 San Francisco International Airport on July 8, 2011.

8 A. Yes.

9 Q. So can you explain -- so was she interviewed on the 8th
10 of July or on the 7th of July?

11 A. She was -- she was interviewed on the 7th.

12 Q. Okay. Just a typo on that, or was that when this report
13 was created?

14 A. When we enter this information, it creates its own time
15 stamp when we're putting it into the system.

16 Q. Okay. So the information on I-867A was not inputted
17 into the system until the following day of Ms. Intarathong's
18 interview, is that correct?

19 A. No, because it's also using Eastern Standard Time, and
20 this was on the West Coast.

21 Q. Got you. Okay. So can you give us an idea, then, of
22 approximately what time Ms. Intarathong would have entered
23 Primary immigration?

24 A. I don't recall when she entered Primary. I would not
25 remember that. I would only remember it's towards the

1 morning or afternoon when Korean Airlines came in.

2 Q. Okay. And do you remember approximately what time you
3 first had an interaction with Ms. Intarathong?

4 A. It would be early -- best guess I would do would be like
5 early afternoon.

6 Q. So early afternoon you have an interaction, and at what
7 time does your interview with her as reflected in the I-867A
8 occur?

9 A. It's at 9:50, 2150.

10 Q. 2150. Okay. And essentially, when Ms. Intarathong
11 arrived at the airport, she entered Primary immigration,
12 correct?

13 A. Yes.

14 Q. And then she was diverted to a Secondary screening by an
15 alert that was placed by Homeland Security, correct?

16 A. Yes.

17 Q. During the time from when she's directed from Primary
18 screening to Secondary screening, fair to say she wasn't
19 free to leave the airport, correct?

20 A. That's correct.

21 Q. She essentially wasn't free to leave your custody and
22 care as immigration officers, correct?

23 A. That's correct.

24 Q. So following the interview with Agent Chan, you provided
25 Ms. Intarathong with some food, correct?

1 A. Yes.

2 Q. And there was a break in time?

3 A. Yes.

4 Q. And do you recall how long that break was?

5 A. I want to say probably about two hours, two hours or so.

6 Q. Okay. And it wasn't Ms. Intarathong who reinitiated
7 wanting to talk to you, is that fair?

8 A. I initiated it, that's correct.

9 Q. You initiated the second conversation with
10 Ms. Intarathong, correct?

11 A. Yes.

12 Q. Okay. And in that interrogation, the second one, it's
13 you as a uniformed officer with another uniformed officer?

14 A. Yes.

15 Q. And Ms. Intarathong wasn't free to leave the airport at
16 that time, correct?

17 A. Yes.

18 Q. And you never provided her with a Miranda warning,
19 correct?

20 A. Correct.

21 Q. And you're familiar with Miranda warnings as a sworn
22 officer?

23 A. Yes.

24 Q. You never referred back to or reminded her of her
25 Miranda rights that were read to her by Agent Chan, correct?

1 A. I didn't.

2 Q. Because you didn't know that they'd been read, correct?

3 A. Correct.

4 Q. And prior to you starting your Secondary interview to
5 determine admissibility, you knew that there was a TECS
6 lookout alert, correct?

7 A. Yes.

8 Q. And what TECS stand for?

9 A. That's the Treasury Enforcement Communication System.

10 Q. Okay. And you knew that that alert related to
11 allegations she was involved in human trafficking, correct?

12 A. Yes.

13 Q. And you knew that it was significant enough that
14 criminal investigators from Homeland Security came to
15 interview Ms. Intarathong.

16 A. Yes.

17 Q. And you knew all of that before you started your
18 interview process.

19 A. Yes.

20 Q. Okay. Now looking at Exhibit 2, starting with your
21 I-867A, you essentially have a Q & A with typed questions,
22 typed answers, correct?

23 A. That's correct, yes.

24 Q. And you did not record this interview, is that correct?

25 A. Right, correct.

1 Q. And as you're creating this, are you typing this as you
2 go?

3 A. Yes.

4 Q. So is this as close to a verbatim transcript of your
5 conversation with Ms. Intarathong as you could get?

6 A. Yes.

7 Q. Anything in reviewing this for the hearing today that
8 you left out of this exchange?

9 A. No, not that I'm --

10 Q. It's accurate and complete and captures in your mind the
11 entirety of the interview with Ms. Intarathong that you
12 conducted?

13 A. Yes.

14 Q. Thank you, Officer Simoy.

15 MR. MORRISON: I have no other questions.

16 THE COURT: Redirect.

17 MS. PROVINZINO: Briefly, Your Honor. Thank you.

18

19 **REDIRECT EXAMINATION**

20 BY MS. PROVINZINO:

21 Q. Would you have still had to do your administrative
22 interview regardless of whether his had done anything?

23 A. Yes.

24 Q. And why is that?

25 A. Partly because there was the alert, as well as the other

1 individuals that were also being removed. So regardless of
2 HSI's involvement, it was because of the other people she
3 was associated with, what I put together, she would be also
4 subject to being removed.

5 Q. And you had to make that determination as to whether
6 she's admissible, right?

7 A. Yes.

8 Q. And you do that every day for hundreds of individuals
9 who are sent to Secondary, fair?

10 A. Yes.

11 Q. And during that time, you were asked questions about
12 whether she was free to leave the airport, true?

13 A. Yes.

14 Q. And how do you understand -- is she actually in the
15 United States when she was in the airport?

16 A. She is not in the United States.

17 Q. And explain that.

18 A. She's not in the United States because she's
19 functionally at a border that's inland, whereas in Canada
20 there's an actual physical barrier of a border. Since she's
21 inland, she's just at the airport.

22 MS. PROVINZINO: No further questions, Your Honor.

23 MR. MORRISON: Brief follow-up.

24

25

RECROSS-EXAMINATION

BY MR. MORRISON:

Q. Your follow-up and your questions regarding admissibility in this situation, your concern was she was committing a crime by coming into the United States, is that fair?

A. My concern was determining her status as a bona fide visitor.

Q. And the question raised about whether or not she was a bona fide visitor was whether or not she was committing human trafficking, which is a crime, correct?

A. For administrative purposes, it was the result of seeing if she was a bona fide visitor.

Q. Okay.

MR. MORRISON: I don't have any other questions.

THE COURT: Anything else?

MS. PROVINZINO: We'll end on that, Your Honor.

Nothing further.

THE COURT: Okay. Thank you for testifying. You may step down.

(Witness steps down)

THE COURT: Still your case.

MS. WILLIAMS: Your Honor, switching to the motion to suppress Ms. Intarathong's statements, fast-forwarding a bit, on January 13th, 2017 -- so this is Defendant ECF 899,

1 our response ECF 911 -- we call Special Agent Tonya Price to
2 the stand.

3 THE COURT: Give me a second here.

4 (Pause)

5 THE COURT: Okay.

6
7 **TONYA PRICE, GOVERNMENT'S WITNESS, SWORN**

8 THE WITNESS: I do.

9 THE COURT: Okay. Please sit down.

10 And I believe we have the same protocol that we
11 had used earlier. There's some documents in front of you.
12 If you could make sure that all of those are turned over at
13 this point and you're free to reference them as needed to
14 refresh your recollection, and if you could just indicate
15 that when you do so or the context may show that there's a
16 question relating to a certain exhibit. I think that will
17 be obvious on the record.

18 With whom are you employed?

19 THE WITNESS: Homeland Security Investigations.

20 THE COURT: And how long have you been employed
21 with Homeland Security Investigations?

22 THE WITNESS: Since December of 2008.

23 THE COURT: Thank you.

24 Please proceed.
25

DIRECT EXAMINATION

BY MS. WILLIAMS:

Q. Special Agent Price, we are here in the case of United States versus Sumalee Intarathong. What is your role in this particular case?

A. I am the lead investigator.

Q. And we're talking about an interview that you and others conducted with Ms. Intarathong on January 13th, 2017 in Liege, Belgium, is that right?

A. That's correct.

Q. Let's give the Court just a little bit of timeline as we build up to that interview, all right?

THE COURT: Sorry. Could you spell Liege? Is it L-I-E-G-E?

MS. WILLIAMS: I think so.

BY MS. WILLIAMS:

Q. Special Agent Price?

A. I'm not confident about the L-E. L-E-I-G --

MR. MORRISON: L-I-E-G-E according to Exhibit 4.

MS. WILLIAMS: L-I-E-G-E, yes.

(Laughter)

BY MS. WILLIAMS:

Q. On July 29th, 2016, so about six months before Ms. Intarathong is interviewed, does a then under-seal criminal complaint issue for Ms. Intarathong?

1 A. Yes.

2 Q. And I believe that's, for the record, DCD number 1 in
3 this case.

4 On August the 5th of 2016, is Ms. Warren
5 arrested -- or Ms. Intarathong, rather -- arrested on a
6 provisional arrest warrant based on this criminal complaint
7 in Liege, Belgium?

8 A. Yes.

9 Q. And on September 17th, 2016, are 17 members of the
10 criminal conspiracy, including the defendant, indicted in
11 this case in what is at that point an under-seal indictment?

12 A. That's correct.

13 Q. And on October the 4th, 2016, there is what we call a
14 takedown in this case, and are numerous members of the
15 criminal conspiracy at that point arrested on the
16 indictment?

17 A. Yes.

18 Q. And the indictment becomes unsealed.

19 A. Yes.

20 Q. As to Ms. Intarathong, did she remain redacted from the
21 indictment because she was not in custody in the United
22 States?

23 A. Yes.

24 Q. So what I'm getting at is, between October 4th, 2016 and
25 the time that a U.S. delegation travels to meet with

1 Ms. Intarathong on January 13th, 2017, does the
2 investigative team receive contacts from Ms. Intarathong
3 that come through her Belgian fiancée, Philippe Milants?

4 A. Yes, we did.

5 Q. Okay. So I would ask you to look at -- I think in front
6 of you -- Government's Exhibit 5.

7 Do you see that?

8 A. Yes.

9 Q. And is this one such communication from Mr. Milants, an
10 email that purports to contain letters from Ms. Intarathong
11 to the U.S. investigative team?

12 A. Yes.

13 MS. WILLIAMS: Your Honor, the Government moves
14 Exhibit 5 into evidence.

15 MR. MORRISON: No objection.

16 THE COURT: Court receives Government 5.

17 BY MS. WILLIAMS:

18 Q. Special Agent Price, this is a fairly lengthy document.
19 I see two kind of email strings at the beginning, beginning
20 on December 10th, 2016. It looks like it winds its way and
21 eventually lands on your lap December 13, 2016, is that
22 right?

23 A. That's correct.

24 Q. And everything we see printed out behind it, some of
25 which is in English and some of which is in French, were

1 these the various attachments that Mr. Milants attached to
2 that email?

3 A. Yes, that's correct.

4 Q. Okay. And the Court can read it and this is long, so we
5 won't go through it at length, but is it fair to say, first
6 of all, that these purport to be letters written by the
7 defendant?

8 A. Yes.

9 Q. And does the defendant repeatedly offer to fully
10 cooperate with the American justice system about how people
11 "send me clients for visa applications"?

12 A. Yes, she does.

13 Q. Does the defendant say: "I realize now this is a big
14 organization for human trafficking using me and my company
15 for their criminal acts"?

16 A. Yes.

17 Q. Does she identify various members of this criminal
18 conspiracy, including who she calls the ring leader of the
19 case?

20 A. Yes, she does.

21 Q. And does she also note that she has concerns for the
22 safety of her and her family and does she ask for witness
23 protection?

24 A. Yes, she expressed those concerns.

25 Q. Okay. Upon receiving Government's Exhibit 5, does a

1 delegation then travel to Belgium to meet with

2 Ms. Intarathong?

3 A. Yes, we did.

4 Q. And at this point she has two different cases, is that
5 right?

6 A. That's correct.

7 Q. She has a case in Belgium where she is being prosecuted
8 for sex trafficking in Belgium?

9 A. Yes.

10 Q. And then she has the current case where she's been
11 arrested on the provisional arrest warrant.

12 A. That's correct, here in the United States.

13 Q. I see. Okay. At the -- and I'm going to -- also, do
14 you see Government's Exhibit 3 in front of you?

15 A. Yes, I have it here.

16 Q. You were a part of this interview?

17 A. Yes, I was.

18 Q. Do you write a 12-page report of investigation
19 summarizing that interview?

20 A. Yes, I did.

21 Q. And is that Government's Exhibit 3?

22 A. It is.

23 MS. WILLIAMS: Government moves Exhibit 3 into
24 evidence.

25 MR. MORRISON: No objection.

1 THE COURT: Court receives Government's 3.

2 BY MS. WILLIAMS:

3 Q. Again, we can all read so we won't go through this at
4 length, but -- and I will refer everyone to the first page
5 of Government's Exhibit 3.

6 Are there a total of 11 people at this interview?

7 A. Yes.

8 Q. And do these people include you, myself, Ms. Provinzino,
9 Ms. Intarathong, Ms. Intarathong's attorney, a Thai
10 translator, an attorney-in-training, a Homeland Security
11 representative, and then three investigators based in Liege,
12 Belgium, investigators?

13 A. Yes, that's everyone that was present.

14 Q. Okay. Does the interview start at about 10:30 a.m.?

15 A. It does.

16 Q. Could you tell us a little bit about where this
17 interview occurred, what the room was like, that sort of
18 thing.

19 A. The room was rather large and it was empty except for a
20 couple of tables and a few chairs for everyone to sit.
21 There was a restroom also available in the larger room that
22 we had access to.

23 Q. And as far as you know, except for maybe some bathroom
24 breaks, was everyone present for all of the interview?

25 A. Yes. I think at one point one of the supervisors over

1 the Liege Police Department had stepped out, but other than
2 that, everyone was present.

3 Q. And more specifically, was Ms. Intarathong's attorney
4 and the interpreter present at all times?

5 A. The entire time, yes.

6 Q. How did the interview begin?

7 A. (No response).

8 Q. Well, did Ms. Intarathong do anything when she saw you?

9 A. She did. When we entered the room, she actually hugged
10 me.

11 Q. Did she seem happy to see you?

12 A. She did. She expressed that she was grateful that we
13 were there.

14 Q. Was Ms. Intarathong -- did you read her her Miranda
15 rights right off the bat?

16 A. I did, yes.

17 Q. Tell us about how that went.

18 A. I maintain my Miranda rights card in my HSI credentials,
19 in my badge, so I utilize that to read verbatim.

20 Q. Presumably, you read it in English?

21 A. Yes, I read it in English and it was translated into
22 Thai.

23 Q. By the interpreter?

24 A. That's correct.

25 Q. Okay. Now, what languages were spoken -- during the

1 entire interview, what were all of the languages that were
2 spoken?

3 A. English, obviously, French, and Thai.

4 Q. French is the language utilized in the southern part of
5 Belgium where Liege is located?

6 A. That's correct.

7 Q. And to your knowledge, which, if any, of these languages
8 does Ms. Intarathong speak?

9 A. My understanding is she speaks all of them.

10 Q. Okay. And her native language is Thai, though.

11 A. That's correct.

12 Q. Did Ms. Intarathong indicate that she understood her
13 Miranda rights?

14 A. Yes.

15 Q. Did she indicate she wanted to speak with U.S.
16 investigators?

17 A. Yes, and her preference was to do that in English,
18 except for if there were other unique words specific to law
19 enforcement or lawyer words, that she would then ask for
20 additional assistance from the Thai interpreter.

21 Q. And did she have that interpreter on standby for
22 anything that she didn't understand at all?

23 A. Yes.

24 Q. And based on your interactions with her, did she seem to
25 speak English fluently?

1 A. Yes.

2 Q. Was she told that she could stop the questioning at any
3 point?

4 A. Yes.

5 Q. Was she told she could speak with her attorney at any
6 point?

7 A. Yes.

8 Q. Was she told that it was fine not to answer a question?

9 A. Yes.

10 Q. And in fact, did she and her attorney take a break at
11 one point to speak privately?

12 A. They did, yes.

13 Q. After she was read and waived her Miranda rights, was
14 she also provided with a written copy of her declaration of
15 rights, essentially the European equivalent?

16 A. Yes, that's correct.

17 Q. What did she --

18 THE COURT: Counsel?

19 MS. WILLIAMS: Yes.

20 THE COURT: Could you lay a little foundation for
21 that? Was she even Mirandized?

22 MS. WILLIAMS: Oh, I'm sorry. I thought --

23 A. She was Mirandized.

24 Q. Yes. I'm sorry if that wasn't clear. Was she fully
25 Mirandized?

1 A. Yes.

2 Q. And did she waive her Miranda rights?

3 A. She waived.

4 Q. After that was she by the Belgian investigators provided
5 with a written copy of her declaration of rights?

6 A. She was, yes.

7 Q. And is that essentially a similar group of rights that
8 is commonly utilized in Europe?

9 A. Yes, that's my understanding.

10 Q. Did she sign each of the four pages of the declaration
11 of rights?

12 A. She did.

13 Q. Did she say anything at that point?

14 A. Essentially that she had read that so many times that
15 she almost had it memorized.

16 Q. Before we get into the substance of the interview, let
17 me ask you a few more questions about the context.

18 Was Ms. Intarathong handcuffed for the interview?

19 A. Not during the interview, no.

20 Q. Was she handcuffed during the transport?

21 A. The transportation she was, yes.

22 Q. Were those removed for the interview?

23 A. They were, yes.

24 Q. Did anyone at any point display any weapons?

25 A. No.

1 Q. In fact, were you armed?

2 A. No. As a U.S. law enforcement Special Agent, I'm not
3 allowed to travel to Belgium with my duty weapon.

4 Q. For any of the Liege officers that may have been armed,
5 at any point did they display their weapons?

6 A. No.

7 Q. Did anybody point any weapons at her at any point?

8 A. No.

9 Q. What were you wearing?

10 A. I was in plainclothes, I believe blue jeans and a suit
11 jacket, blouse.

12 Q. What was the tone of the interview?

13 A. It was more of a fluid conversation between three
14 different languages, essentially. It was back and forth.

15 Q. Let me ask you, did anyone yell at Ms. Intarathong at
16 any point?

17 A. No.

18 Q. Was any harsh language used?

19 A. No.

20 Q. Was it a warm interview?

21 A. I would say so.

22 Q. A friendly interview.

23 A. Yes.

24 Q. Did she express gratitude that the interview was
25 occurring?

1 A. She did.

2 Q. Okay.

3 A. She had tears in her eyes at one point. She was
4 relieved that we were there having this conversation.

5 Q. So let me talk to you a little bit about that. What did
6 she say at the outset of the interview?

7 A. That she -- that we were grateful -- she was grateful
8 that we were there and that she had also prayed for the
9 delegation's safety.

10 Q. Did the interview begin with a personal history of
11 Ms. Intarathong?

12 A. It did, yes.

13 Q. And did we learn during that personal history -- or
14 maybe it was reiterated -- that she has two undergraduate
15 degrees, I believe, and a master's degree?

16 A. Yes.

17 Q. That she has lived in Vienna and the U.K.?

18 A. Yes.

19 Q. And that at one point she was married to a U.K. citizen?

20 A. Yes.

21 Q. Did you ask Ms. Intarathong if she had in fact sent the
22 letters that prompted our arrival?

23 A. Yes. That was part of the questioning.

24 Q. And what did she say?

25 A. She had admitted that she was the one that prepared and

1 sent the letters.

2 Q. Did she -- she obviously provided information about the
3 criminal conspiracy in her letter. Did she continue
4 providing information during this interview?

5 A. Yes, she did.

6 Q. Was she shown a series of photos?

7 A. She was.

8 Q. Did she identify members of the criminal conspiracy?

9 A. Yes, and accurately.

10 Q. Was she repeatedly told that she should tell the truth?

11 A. Yes.

12 Q. At one point did she and her attorneys, both the primary
13 attorney and kind of the training attorney, take
14 approximately a 15-minute break?

15 A. Yes.

16 Q. Now, after the break did Warren's attorney ask about the
17 possibility of her not being extradited back to the United
18 States?

19 A. You did inquire as to that, yes.

20 Q. And what was she told?

21 A. Essentially that we were not able to agree to that and
22 it would not be possible. Essentially, we were seeking
23 extradition.

24 Q. Did Ms. Intarathong re -- I guess reiterate the concerns
25 that she had already expressed in her letters, concerns for

1 the safety of her family in Thailand?

2 A. Yes, she did.

3 Q. And did she specifically talk about a threatening call
4 that had been received by her mother and some investigation
5 that her sister was doing into the traffickers in Thailand?

6 A. Yes.

7 Q. What was she told at that point?

8 A. She was advised that it's best for family members to not
9 interact and do their own investigations as far as
10 questioning the actual targets, members of the criminal
11 conspiracy that reside in Thailand. The concern is for
12 their safety. As Sumalee, or Ms. Intarathong, has already
13 expressed to us, we shared those concerns.

14 Q. And without getting into any great detail, were there
15 safety concerns that had arisen in this investigation that
16 led you to believe that there really were safety concerns in
17 Thailand?

18 A. Absolutely.

19 Q. And was Ms. Intarathong told, essentially, let us be the
20 police, don't have your family interact with traffickers, to
21 ensure their safety?

22 A. Yes.

23 Q. At any point was Ms. Intarathong dissuaded from
24 investigating her own case?

25 A. No.

1 Q. But is it fair to say at this point in the interview,
2 were we viewing Ms. Intarathong as a cooperator?

3 A. Yes, that's fair to say.

4 Q. Okay. Did Ms. Intarathong's attorney ask questions
5 about the penalties she faced in the United States?

6 A. She did, yes.

7 Q. Okay. And in response to that, did we provide truthful
8 information about that?

9 A. Yes, we did.

10 Q. Following these questions, did Ms. Intarathong continue
11 to talk about the criminal organization?

12 A. She did, yes.

13 Q. Okay. Is it fair to say that she made admissions as to
14 her guilt, but minimized her role in the investigation -- or
15 in the organization?

16 A. Yes.

17 Q. At the conclusion of the interview, was there some
18 write-up done of what had occurred?

19 A. There was.

20 Q. And I'm going to ask you, Special Agent Price -- the
21 final exhibit, Government's Exhibit 4, should be in front of
22 you.

23 A. I have that here.

24 Q. Is this the write-up, a summary, essentially, of the
25 interview?

1 A. Yes.

2 Q. Can you tell the Court a little bit about how that was
3 created.

4 A. During the course of the interview, one of the other
5 Liege Police Department detectives was typing up the
6 majority of what was being said. There was a first draft
7 that was provided to Ms. Intarathong as well as to her
8 attorney. They reviewed that first draft page by page.
9 Ms. Intarathong made edits or changes, amendments to that
10 document. It was then provided back to the Liege police
11 detectives. Those changes were included in the final draft
12 and Ms. Intarathong and her attorney at the time reviewed
13 each of those pages as you can see in Government Exhibit 4.
14 It would be page 4 under the Hearing Report. There are
15 signatures on the left-hand side of the document and
16 Ms. Intarathong signed as to reading that and that continues
17 on for each page.

18 Q. And the final page of the document, is that also signed
19 by Ms. Intarathong, by yourself, by her attorneys and among
20 other people?

21 A. Yes.

22 Q. Okay.

23 MS. WILLIAMS: Your Honor, at this point the
24 Government has no further questions.

25 THE COURT: Have you offered to have it admitted?

1 MS. WILLIAMS: Oh, I thought I did. I apologize
2 if I did not. The Government moves to admit Exhibit 4.

3 MR. MORRISON: No objection.

4 THE COURT: Received. Just to clean up the
5 exhibits, did we get a record of admitting 1?

6 THE CLERK: I believe we did.

7 THE COURT: Just in case --

8 MS. WILLIAMS: Your Honor, we would formally --
9 and maybe we didn't -- move to admit Government's 1 through
10 5, which are all the exhibits that we intend to admit at
11 this hearing.

12 MR. MORRISON: And Exhibit 1 was received over
13 objection and I have no objection to the remaining exhibits.

14 THE COURT: We'll note that there's no waiver of
15 the objection as to Exhibit 1. Thank you. The Court
16 receives them.

17 MS. WILLIAMS: Thank you, and no further questions
18 from the Government, Your Honor.

19 MR. MORRISON: May I proceed, Judge?

20 THE COURT: I'm just putting -- noting the
21 objection. Anyway, yes, please.

22

23 **CROSS-EXAMINATION**

24 BY MR. MORRISON:

25 Q. Good afternoon, Special Agent Price. How are you?

1 A. I'm well. Are you?

2 Q. Oh, I'm okay. I'm busy.

3 (Laughter)

4 Q. You had a lot of questions about Ms. Intarathong's
5 attorney in Belgium. Do you recall those questions on
6 direct?

7 A. Yes.

8 Q. Let's be clear for the record. This was not an attorney
9 licensed to practice law in the United States of America,
10 correct?

11 A. To my knowledge, that's correct.

12 Q. Okay. He was a Belgian attorney, correct?

13 A. Yes.

14 Q. And you don't speak Thai?

15 A. Sawadee ka, kob kun ka. That's about it.

16 Q. Okay. And other than Ms. Intarathong and the
17 interpreter, was there anybody else present during the
18 interview that spoke fluent Thai that you were aware of?

19 A. Not that I'm aware of.

20 Q. Okay. And you read your -- the Miranda warning to
21 Ms. Intarathong, correct?

22 A. Correct.

23 Q. And that was translated into Thai, correct?

24 A. Yes.

25 Q. We don't have a recording of this interview that was

1 conducted, correct?

2 A. That's correct.

3 Q. We don't know the skill level of the interpreter that
4 was there that day, correct, you don't?

5 A. I don't, no.

6 Q. And I want you to take a look at Exhibit 4, and you can
7 turn -- page in where it starts as "Part 2."

8 (Pause)

9 A. Can you specify?

10 Q. So we're starting at "Part 2." Do you see that we're on
11 the same page here? Maybe I gave you a wrong page number
12 then.

13 I'm sorry. It's the fifth page, "Part 2" in bold
14 near the top?

15 A. I see that. Thank you.

16 Q. I apologize. I put you to the wrong page.

17 A. No, that's okay.

18 Q. Essentially, this is an English translation produced by
19 a Belgian, correct?

20 A. I'm not certain how the trans -- how the document went
21 from French to English. I'm not certain if we requested for
22 that here in the United States to occur or if that occurred
23 in Belgium.

24 Q. Okay. So somehow this got translated from French,
25 though, into English for this document.

1 A. That's correct.

2 Q. And as we look down from Part 2, we have a bunch of
3 asterisks and it's -- essentially, it looks like it's
4 attempting to translate your Miranda reading to
5 Ms. Intarathong.

6 A. That's correct.

7 Q. And in this translation it talks about: "You explain to
8 me that I have the right to remain silent; all that I say
9 can be used against me in court." It says: "I have the
10 right to consult an attorney prior to my hearing and to be
11 assisted by an attorney during my hearing," correct?

12 A. That's what it reads, yes.

13 Q. Yeah. And that's not actually what you read to her,
14 correct?

15 A. That's correct.

16 Q. Okay. She actually had a right to have an attorney
17 assisting her during her interrogation, correct?

18 A. During my interview, yes, and her attorney was present.

19 Q. She has a right to have an attorney -- Mr. Monfort
20 wouldn't have been a competent attorney to be assisting her
21 in the United States during an interrogation, correct?

22 MS. WILLIAMS: Objection. Your Honor, I think
23 that calls for the witness's speculation. She's already
24 said she doesn't know this attorney's qualifications, far
25 outside of this witness's purview.

1 THE COURT: You can answer if you know.

2 A. I had never met that attorney prior to that day. I
3 don't have a sense of his accomplishments or history.

4 THE COURT: Sustained.

5 BY MR. MORRISON:

6 Q. You testified earlier that you knew he wasn't licensed
7 to practice law in the United States, Agent Price. Do you
8 remember just saying that?

9 A. I ascertained that.

10 Q. Okay. He wasn't a licensed attorney in the United
11 States, correct?

12 A. That's correct.

13 Q. He wouldn't have been competent to sit in with an
14 interrogation because he's not a competent United States
15 attorney, correct?

16 MS. WILLIAMS: Objection, Your Honor. Counsel can
17 make this argument, but it's not for the witness.

18 THE COURT: I think the record is there for both
19 sides to argue.

20 BY MR. MORRISON:

21 Q. Ms. Price -- or Agent Price; apologies -- you never
22 advised Ms. Intarathong of her right to have somebody from
23 her embassy, her Thai embassy, present during the interview,
24 is that correct?

25 A. Not during the course of that interview.

1 Q. Okay. Ms. Intarathong was in custody in Belgium,
2 correct?

3 A. Yes.

4 Q. She was in custody pursuant to a Belgian court order or
5 law, as you understood it, correct?

6 A. Yes. When we first identified that she was in Belgium,
7 she was not in custody on that particular court case. She
8 was free to remain at her home. Once we had obtained the
9 warrant and submitted the red notice, they executed an
10 arrest on her and she was then placed in custody.

11 Q. Okay. So she was in custody back in Belgium per the
12 United States' request, correct?

13 A. That's correct.

14 Q. And she was not free to leave Belgium, correct?

15 A. Yes.

16 Q. And in fact, she was not free to leave the facility that
17 she was being held at, correct?

18 A. Correct.

19 Q. And she was handcuffed when she was brought to the
20 interview room with you, correct?

21 A. Yes.

22 Q. And she was handcuffed when she left the interview room
23 after meeting with you, correct?

24 A. Yes.

25 Q. When you and the Assistant United States Attorneys

1 traveled to Belgium to interview Ms. Intarathong, a number
2 of defendants in this indictment had already made
3 appearances in the District of Minnesota, is that correct?

4 A. Yes.

5 Q. And would it be fair to say that one of the objectives
6 you had in traveling to interview Ms. Intarathong was to ask
7 her questions about her involvement in a sex trafficking
8 enterprise, correct?

9 A. Yes.

10 Q. A secondary reason for conducting the interview was to
11 ascertain her ability to potentially cooperate in that
12 investigation, is that fair?

13 A. Yes.

14 Q. During your interview with her, she was told that
15 without cooperating with you, she would be facing 15 years
16 to life in prison, is that correct?

17 A. Her attorney had inquired as to the potential penalties
18 in the United States and those were explained, yes.

19 Q. And it was explained to her that without cooperation she
20 was facing 15 years to life, correct?

21 A. That's true.

22 Q. It was clear Ms. Intarathong was presenting you with
23 evidence that she believed exonerated her from the charges,
24 correct?

25 A. That I can't speak to.

1 Q. She certainly didn't believe she was the big boss of
2 your sex trafficking conspiracy, correct?

3 A. She did make that statement a number of times, yes.

4 Q. And she told you about the investigation she was trying
5 to conduct with the assistance of her family, correct?

6 A. I don't know that she used the term "investigations,"
7 but she was explaining that her family was reaching out to
8 the Thai bosses on her behalf.

9 Q. And you told her that she should stop any investigation
10 she was doing, correct?

11 A. Are you referencing a particular page?

12 Q. I'm just asking you did you tell her that.

13 A. To stop the investigations? No.

14 Q. Okay. And you specifically told her that she should
15 have no further communication about the case with her
16 fiance, correct?

17 A. I don't recall a conversation pertaining to her fiance.

18 Q. Okay. She was also told by either you or the Assistant
19 United States Attorneys that she was not to share
20 information regarding her meeting with the U.S. delegation,
21 correct?

22 A. I don't recall.

23 Q. Given your lack of recollection, I just want to confirm
24 a few things. Your report is Government Exhibit 3, is that
25 correct?

1 A. Yes.

2 Q. And you had an opportunity to review this report prior
3 to your testimony today?

4 A. Briefly, yes.

5 Q. Okay. When you write a report it's complete, correct?

6 A. Yes.

7 Q. It's accurate, correct?

8 A. Yes.

9 Q. Okay. What's reflected in this report reflects what was
10 said during your interview -- interrogation of
11 Ms. Intarathong, is that fair?

12 A. Fair.

13 Q. Okay. Thank you, Special Agent Price. I don't have any
14 further questions right now.

15 THE COURT: I have a couple of follow-up questions
16 and then both sides can follow up.

17

18 **E X A M I N A T I O N**

19 BY THE COURT:

20 Q. Special Agent Price, did you advise Defendant her
21 Miranda rights at this interview we're talking about?

22 A. Yes.

23 Q. How did you do that?

24 A. Utilizing my Miranda card that I carry with me in my
25 credentials.

1 Q. So what is that Miranda card? Do you have it?

2 A. It's in my purse, actually, at the U.S. Attorney's
3 Office.

4 Q. Okay. And what language did you advise it in?

5 A. English.

6 Q. And then how -- was it then translated into French, or
7 how was that?

8 A. Translated into Thai, and it was also translated into
9 French for the detectives.

10 Q. So it was first English, then Thai, and then French.

11 A. Yes. All of the communication had to be translated
12 eventually into French for the detectives. That was part of
13 the agreement.

14 Q. Given you don't have the advisory card on you, do you
15 have a recollection of what that card says in terms of
16 referencing -- I believe the comment was, quote,
17 "hearing" --

18 MR. MORRISON: Hearing, Your Honor.

19 THE COURT: -- end quote, as opposed to anything
20 else?

21 A. Can you repeat the question?

22 Q. You don't have your Miranda card with you today?

23 A. No, it's in Melinda's office.

24 MS. WILLIAMS: I'm happy to get it, Your Honor, if
25 that's helpful.

1 BY THE COURT:

2 Q. Do you have a recollection -- I think the part we're
3 talking about, the part relating to the right to have an
4 attorney, and I think the translation in French, as I
5 understand it, is, quote, "hearing," end quote, as opposed
6 to before asking questions, answering questions and so
7 forth. Do you know what your card says?

8 A. Well, this is also why we keep the Miranda cards with
9 us.

10 So, my recollection, our actual Miranda does not
11 use the word "hearing." "You have a right to have an
12 attorney present" -- sorry. I apologize. I would have to
13 read it from the card.

14 MS. WILLIAMS: If I can pick up on this, Your
15 Honor?

16 THE COURT: Yes. And both sides can follow up.

17
18 **REDIRECT EXAMINATION**

19 BY MS. WILLIAMS:

20 Q. Is this a standard-issue HSI card that you keep with you
21 and read from verbatim so you don't miss a word of the
22 Miranda rights?

23 A. Yes.

24 Q. Okay. And --

25 THE COURT: Counsel, I'll strike the "verbatim"

1 part, but you can ask if this is what you use.

2 BY MS. WILLIAMS:

3 Q. I'm sorry. When you read it, how do you read it? Do
4 you read it word for word?

5 A. Word for word.

6 Q. Is that what you did with Ms. Intarathong?

7 A. Yes.

8 Q. Okay. So I think Mr. Morrison was looking at
9 Government's Exhibit 4 and talking about a hearing. Would
10 have you have said that if that is not part of the Miranda
11 warning?

12 A. I would not.

13 Q. Okay. So does it seem likely that that is a product of
14 translating from English to French, back into English?

15 A. Yes.

16 Q. And let's pull back just a little bit.

17 Did this interview have the tone of an
18 interrogation?

19 A. No.

20 Q. Were we essentially invited guests by Ms. Intarathong?

21 A. Yes.

22 Q. And did she express her repeated appreciation that we
23 were there to hear what she had to say?

24 A. Yes.

25 Q. Mr. Morrison asked you some questions about whether she

1 viewed this as her being exonerated. Is it fair to say that
2 she repeatedly said in her letters and in the interview that
3 she was not the big boss of the organization?

4 A. Yes.

5 Q. And did she provide the name of higher up traffickers in
6 Thailand?

7 A. She did, yes.

8 Q. But was she clear that she worked for those traffickers?

9 A. She was, yes.

10 Q. Did she acknowledge understanding that women were sent
11 over to the United States for sex under bondage debts?

12 A. Yes.

13 Q. And did she acknowledge at least some of her role in
14 that scheme?

15 A. Yes.

16 Q. In fact -- and I'll refer you back to I believe it's
17 Government's 5 -- did she say in her letter to us before any
18 of this interview occurred: "I realize now this is a big
19 organization for human trafficking using me and my company
20 for their criminal acts"?

21 A. She did, yes.

22 Q. Mr. Morrison asked you some questions about the skill
23 level of the Thai interpreter that was present. Do you
24 remember those questions?

25 A. Yes.

1 Q. Now, obviously you don't speak fluent Thai and cannot
2 speak to that person's translation, is that right?

3 A. That's correct.

4 Q. But of course Ms. Intarathong speaks Thai, right?

5 A. Yes.

6 Q. Were there any complaints from Ms. Intarathong about the
7 quality of that interpretation?

8 A. None that was expressed to us.

9 Q. Did she appear to understand everything that was being
10 said?

11 A. Yes.

12 Q. Okay. And was this a conversation where Ms. Intarathong
13 appeared to feel free to express herself? Did she seem
14 intimidated or did she seem free to express herself
15 throughout this interview?

16 A. She appeared free to express herself. Again, grateful
17 that we were there. At one point she had tears in her eyes
18 and she hugged me, which was frankly unexpected, but --

19 THE COURT: Could you repeat that, please?

20 A. She appeared grateful that we were there, had tears in
21 her eyes at one point, and in fact had hugged me.

22 MS. WILLIAMS: Your Honor, may I approach the
23 witness?

24 THE COURT: Yes.

25 MS. WILLIAMS: Thank you.

1 BY MS. WILLIAMS:

2 Q. Special Agent Price, I'm handing you your purse. If you
3 could retrieve your Miranda card if it is in there.

4 A. (Complies).

5 Q. And is this either the exact same or the same type of
6 Miranda card that you would have utilized at this interview
7 of Ms. Intarathong?

8 A. Yes.

9 Q. Could you just read into the record what it says on
10 that?

11 A. "Advisement and Waiver of Miranda Rights.

12 "Before I ask you any questions, I want to explain
13 your rights to you.

14 "You have the right to remain silent. Anything
15 you say can be used against you in a court of law.

16 "You have the right to consult with a lawyer
17 before questioning and to have a lawyer present during
18 questioning.

19 "If you cannot afford a lawyer, one will be
20 appointed to represent you free of charge prior to any
21 questioning.

22 "Do you understand your rights? Are you willing
23 to waive these rights and talk to me now without a lawyer
24 being present?"

25 Q. And what would Ms. Intarathong have said to both of

1 those questions if she was willing to speak with you and to
2 waive her rights?

3 A. She was willing to speak and -- both -- to waive her
4 rights.

5 Q. And of course, she did have an attorney present.

6 A. And she did, yes.

7 Q. Okay. And then, Special Agent Price, if you could pick
8 up Government's 3 in front of you. I know Mr. Morrison
9 asked you some questions about the instructions you gave
10 Ms. Warren during the end of the interview, and I just want
11 to give you a chance to refresh your recollection on that.

12 A. Thank you.

13 Q. If you can go to page 11.

14 A. (Pause). I'm there.

15 Q. Okay. And if you just want to read the first two full
16 paragraphs.

17 A. That begin with --

18 Q. Just read them to yourself.

19 A. Oh. (Witness complies).

20 Q. Had Ms. Intarathong expressed concern about a particular
21 trafficker known as "Odd" being able to hurt her family?

22 A. Yes.

23 Q. And were we aware of this trafficker?

24 A. We were.

25 Q. And did we share in some of her safety concerns?

1 A. You did.

2 Q. Did you instruct her not to talk about the case or to
3 share information regarding her meeting with the U.S.
4 delegation?

5 A. Yes.

6 Q. And did you also instruct her not to send or have others
7 send letters or emails on her behalf?

8 A. Yes.

9 Q. And was that instruction given specific to her safety?

10 A. It was.

11 Q. And to be clear, did you continue to receive information
12 from her fiancée?

13 A. Yes.

14 Q. Okay. Is that the standard type of safety talk that you
15 would give anyone cooperating with the Government in this
16 type of case?

17 A. It is a unique case, but yes.

18 MS. WILLIAMS: Your Honor, I think that's all I
19 have at this point.

20 THE COURT: When you're ready, Mr. Morrison.

21

22 **RECROSS-EXAMINATION**

23 BY MR. MORRISON:

24 Q. You, Agent Price, have no knowledge of the
25 qualifications of the Thai interpreter that was present

1 during your interrogation of Ms. Intarathong, true?

2 A. True.

3 Q. You have no knowledge of whether or not your Miranda
4 warning was interpreted correctly to Ms. Intarathong into
5 the Thai language, correct?

6 A. Correct.

7 MR. MORRISON: Your Honor, I have no further
8 questions.

9
10 **FURTHER REDIRECT EXAMINATION**

11 BY MS. WILLIAMS:

12 Q. You do know that it was read correctly in English,
13 correct?

14 A. Correct.

15 Q. Does Ms. Intarathong speak English?

16 A. Yes.

17 Q. And did she appear to understand in English what you
18 were saying?

19 A. Yes.

20 MS. WILLIAMS: No further questions.

21
22 **FURTHER RECROSS-EXAMINATION**

23 BY MR. MORRISON:

24 Q. And Ms. Intarathong specifically told you before the
25 interview that she needed a Thai interpreter when we talk

1 about lawyer things, correct?

2 A. Correct.

3 MR. MORRISON: No further questions.

4 THE COURT: I don't remember the, quote, lawyer
5 things.

6 MR. MORRISON: She just answered that that was
7 correct, Judge.

8 MS. WILLIAMS: Your Honor, may I clarify?

9

10 **FURTHER REDIRECT EXAMINATION**

11 BY MS. WILLIAMS:

12 Q. I think what Mr. Morrison is referring to is a line in
13 your ROI, page 2 of 12:

14 "WARREN consented to proceed in English unless
15 there was a specific 'lawyer word' or 'police word,' which
16 might be helpful to have translated into Thai."

17 Is that correct?

18 A. That's correct.

19 MS. WILLIAMS: Thank you.

20 THE COURT: Okay. For the record --

21 MR. MORRISON: No further questions.

22 MS. WILLIAMS: I think we're done.

23 THE COURT: Mr. Morrison, is that --

24 MR. MORRISON: That's fine.

25 THE COURT: Thank you for testifying. You may

1 step down.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Government, still your case.

4 MS. WILLIAMS: Nothing further from the
5 Government, Your Honor.

6 MR. MORRISON: I have no witnesses. Your Honor, I
7 would request an opportunity to get a transcript and provide
8 supplemental briefing. I'll advise the Court that I start a
9 trial in front of Judge Frank on Tuesday. It should be
10 a two- to three-week long trial, so I'm just taking that
11 into account for setting the briefing schedule.

12 THE COURT: Let's go off the record and talk about
13 scheduling.

14 (Discussion off the record)

15 THE COURT: Okay. We are back on the record in
16 the case of United States of America versus Intarathong,
17 Case Number 16-CR-257(1). We've had off-the-record
18 discussions about a transcript, briefing. The transcript,
19 that will be October 21, Defendant's brief will be
20 November 12, and Government's response will be November 30.

21 Anything else for the record for purposes of today
22 from the Government?

23 MS. WILLIAMS: Not from the Government. Thank
24 you.

25 THE COURT: From defense?

1 MR. MORRISON: No, Your Honor. Thank you.

2 THE COURT: Thank you, everyone, for being here
3 today, and thank you, Madam Interpreter, for traveling all
4 this way, and good luck to both sides.

5 MS. PROVINZINO: Thank you, Your Honor.

6 (Proceedings concluded at 3:15 p.m.)

7 * * * *

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C E R T I F I C A T E

I, **TIMOTHY J. WILLETTE**, Official Court Reporter
for the United States District Court, do hereby
certify that the foregoing pages are a true and
accurate transcription of my shorthand notes,
taken in the aforementioned matter, to the best
of my skill and ability.

/s/ Timothy J. Willette

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